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Европске уније**

**A szerb és a magyar jog harmonizációja az
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**Harmonisation of Serbian and Hungarian Law
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САДРЖАЈ

<i>Драјан Л. Милков</i>	
Поводом новог Закона о заштитнику грађана	1
<i>Гордана Б. Ковачек Сџанић</i>	
Право детета да зна своје биолошко порекло у упоредном европском праву: последнице на родитељско право	21
<i>Љубомир С. Сџајић</i>	
Безбедносни и правни аспекти заштите критичне енергетске инфраструк- туре у Републици Србији	37
<i>Маја Д. Сџанивукковић</i>	
Основни елементи за реформу клаузуле о решавању спорова између ула- гача и државе у двостраним споразума Србије о заштити инвестиција . .	57
<i>Душан Ж. Николић</i>	
Правни аспекти декларисања и обележавања вина – Општи приступ	85
<i>Сенад Р. Јаџаревић</i>	
Заштита деце на раду у Аустрији, Француској и Србији	103
<i>Снежана С. Бркић</i>	
ЗКП из 2011. године и трајање главног поступка	125
<i>Сања В. Ђајић</i>	
Ренесанса начела добре вере у новијој међународној арбитражној и уговор- ној пракси	145
<i>Таијана Д. Бујарски</i>	
Криминалитет у доба пандемије COVID 19	165
<i>Драјиша С. Дракић</i>	
О појединим облицима индивидуалне и колективне кривице	183
<i>Бранислав Р. Рисџивојевић</i>	
Ванредна обавезна вакцинација деце као услов за школовање у РС	203
<i>Слободан П. Орловић</i>	
Забрана протеривања у пракси српског Уставног суда током „мигрантске кризе“ – студија случаја	221

<i>Бојан Л. Пајић</i>	Спречавање нелојалне (непоштене) конкуренције у српском и мађарском праву и правној и пословној пракси	239
<i>Гордана М. Дракић</i>	Правни положај судија у југословенској Краљевини	257
<i>Зоран Ј. Лончар</i>	Општински услужни центри као вид модернизације управног поступка у Србији	271
<i>Јелена Ђ. Видић</i>	Искључење из права на нужни део са освртом на ограничену могућност разбаштињења услед пандемије COVID – 19	285
<i>Јожеф Хајду</i>	Право на рад и делимична незапосленост у условима пандемије вируса COVID-19 кроз призму ставова Европског комитета за социјална права	305
<i>Ержебеј Чашило</i>	Враћање ЕУ држављана затечених ван граница ЕУ у време ковида: још један корак ка европеизацији конзуларне заштите?	319
<i>Катјалин Виџонијаји-Сабо</i>	Пандемија COVID-19 и насиље у породици	339
<i>Лудии Шикей</i>	Питања локалне финансијске аутономије у време COVID-19 у Мађарској	351
<i>Адриен Лукач</i>	Заштита података о личности запослених који раде код куће услед пандемије вируса COVID-19 у Мађарској	365
<i>Габор Хајду</i>	Заштита страних улагања услед ковида – 19: равнотежа између легитимних очекивања и јавног интереса	379
<i>Жофија Холечка</i>	Дужности и овлашћења градоначелника током ванредног стања. Недостојност градоначелника и одлучивање током ванредног стања	391
<i>Нармин Миријева</i>	Правни утицај COVID-19 на online понашање потрошача	405
<i>Шандор Нађ</i>	Суочавање са COVID-19 кризом на локалном нивоу – можемо ли бити захвални за пандемију?	425
<i>Ан Туан Лу</i>	Ковид 19: јавно здравље и ограничења слободе кретања људи у Европској унији	437

TARTALOMJEGYZÉK

<i>Dragan L. Milkov</i>	
A polgári jogvédő intézményéről szóló új törvény kapcsán	1
<i>Gordana B. Kovaček Stanić</i>	
A gyermek joga a saját biológiai származásának a megismerésére az összehasonlító európai jogban: következmények és a szülői jog	21
<i>Ljubomir S. Stajić</i>	
A kritikus energetikai infrastruktúra védelmének biztonságpolitikai és jogi szempontjai a Szerb Köztársaságban	37
<i>Maja D. Stanivuković</i>	
Alapelemek a Szerb Köztársaság bilaterális beruházásvédelmi egyezményeiben szereplő vitarendezési záradék reformjához	57
<i>Dušan Ž. Nikolić</i>	
A borok címkézésének és megjelölésének jogi szempontjai (általános megközelítés)	85
<i>Senad R. Jašarević</i>	
A dolgozó gyermekek védelme Szerbiában, Ausztriában és Franciaországban . .	103
<i>Snežana S. Brkić</i>	
A 2011. évi Be. és a főtárgyalás időtartama	125
<i>Sanja V. Djajić</i>	
A jóhiszeműség elvének reneszánsza az újabb választott bírósági és szerződési gyakorlatban	145
<i>Tatjana D. Bugarski</i>	
Bűnözés a Covid-19 járvány korában	165
<i>Dragiša S. Drakić</i>	
Az egyéni és kollektív vétkesség egyes eseteiről	183
<i>Branislav R. Ristivojević</i>	
A gyermekek rendkívüli kötelező védőoltása Szerbiában mint az iskolalátogatás előfeltétele	203
<i>Slobodan P. Orlović</i>	
A kiutasítás tilalma a szerb Alkotmánybíróság gyakorlatában a „migráns-válság” alatt – esettanulmány	221

<i>Bojan L. Pajtić</i>	A tisztességtelen verseny megakadályozása a szerb és magyar jogban, jogalkalmazásban és kereskedelmi gyakorlatban	239
<i>Gordana M. Drakić</i>	A bírák jogállása a jugoszláv királyságban	257
<i>Zoran J. Lončar</i>	A helyi önkormányzati közigazgatási központok mint a közigazgatási eljárás modernizációjának egyik megnyilvánulási formája Szerbiában	271
<i>Jelena Đ. Vidić</i>	Az örökös megfosztása a kötelesrésztől figyelembe véve a kitagadás intézményének korlátozott alkalmazhatóságát a Covid-19 járvány alatt	285
<i>Hajdú József</i>	A munkához való jog és a részleges munkanélküliség az ECSR Covid-19 állásfoglalása tükrében	305
<i>Csatlós Erzsébet</i>	Unió polgárok hazaszállítása a COVID-19 járvány idején: újabb lépés a konzuli védelmi politika további európaizálódása felé?	319
<i>Visontai-Szabó Katalin</i>	Covid-19 világjárvány és családon belüli erőszak	339
<i>Siket Judit</i>	A helyi önkormányzati autonómia kérdései Magyarországon a covid 19 idején .	351
<i>Lukács Adrienn</i>	Otthonról történő munkavégzés és a munkavállalók személyes adatok védelméhez való joga a covid-19 pandémia alatt Magyarországon	365
<i>Hajdu Gábor</i>	A külföldi beruházások védelme és a covid-19: a legitim elvárások és közérdek közötti egyensúly	379
<i>Holecska Zsófia</i>	A polgármesterek feladat- és hatásköre a veszélyhelyzet idején. A polgármesterek méltatlansága és döntéshozatala a veszélyhelyzet alatt	391
<i>Miriyeva Narmin</i>	A covid-19 jogi hatása az online fogyasztói magatartásra	405
<i>Nagy Sándor</i>	Szemben a covid-19 válsággal helyi szinten – lehetünk-e hálások a járványért? .	425
<i>Anh Tuan Luu</i>	Covid-19: a személyek szabad mozgásának korlátozása közegészségügyi okból az EU-ban	437

TABLE OF CONTENTS

<i>Dragan L. Milkov</i>	
About the New Law on the Protector of Citizens	1
<i>Gordana B. Kovaček Stanić</i>	
The Child’s Right to Know His/Her Biological Origin in Comparative European Law: Consequences to Parentage Law	21
<i>Ljubomir S. Stajić</i>	
Security and Legal Aspects of Critical Energy Infrastructure Protection in the Republic of Serbia	37
<i>Maja D. Stanivuković</i>	
Key Elements for Reform of the Investor-State Dispute Settlement Clause in the Serbian Bilateral Investment Treaties	57
<i>Dušan Ž. Nikolić</i>	
Legal Aspects of Wine Desigantion and Lebeling (General Approach)	85
<i>Senad R. Jašarević</i>	
Child Protection at Work in Serbia, Austria and France	103
<i>Snežana S. Brkić</i>	
Code of Criminal Procedure From 2011 and The Duration of The Main Proce- edings	125
<i>Sanja V. Djajić</i>	
Renaissance of the Good Faith Principle in Recent International Investment Arbitration and Treaty-Making	145
<i>Tatjana D. Bugarski</i>	
Crime in the Age of the Pandemic Covid 19	165
<i>Dragiša S. Drakić</i>	
On Certain Forms of Individual and Collective Culpability	183
<i>Branislav R. Ristivojević</i>	
Offence of the Article 248 of the Serbian Criminal Code: Noncompliance with Health Regulations During the Time of Epidemic	203
<i>Slobodan P. Orlović</i>	
Prohibition of Expulsion in Practice of Serbian Constitutional Court in “Migra- tion Crisis” – Case Study	221

<i>Bojan L. Pajtić</i>	Prevention of Unfair Competition in Serbian and Hungarian Law and Legal and Business Practice	239
<i>Gordana M. Drakić</i>	Legal Position of Judges in the Kingdom of Yugoslavia	257
<i>Zoran J. Lončar</i>	Municipal Service Centers as a Form of Modernization of Administrative Procedure in Serbia	271
<i>Jelena Đ. Vidić</i>	Exclusion from the Right to Reserved Portion With Reference to the Limited Possibility of Disinheritance Due to the Covid – 19 Pandemic	285
<i>József Hajdú</i>	Right to Work and Partial Unemployment Based on the Reflection of the ECSR on COVID-19	305
<i>Erzsébet Csatlós</i>	Bringing Stranded EU Citizens Home in Covid-Times: another Step Towards the Europeanisation of Consular Protection?	319
<i>Katalin Visontai-Szabó</i>	COVID-19 Pandemic and Domestic Violence	339
<i>Judit Siket</i>	Questions of Local Financial Autonomy in Times of Covid19 in Hungary	351
<i>Adrienn Lukács</i>	Working from Home and Employees' Right to Data Protection During the COVID-19 Pandemic in Hungary	365
<i>Gábor Hajdu</i>	Protecting Foreign Investments Amidst COVID-19: the Balance between Legitimate Expectations and Public Interest	379
<i>Zsófia Holecska</i>	Duties and Powers of Mayors During the State of Emergency the Indignity of Mayors and the Decisions-Making During the State of Emergency	391
<i>Narmin Miriyeva</i>	The Legal Impact of COVID-19 on Online Consumer Behavior	405
<i>Sándor Nagy</i>	Facing THE COVID-19 Crisis at Local Level – Can we be Grateful for the Pandemic?	425
<i>Anh Tuan Luu</i>	COVID-19: Public Health and Restrictions on the Free Movement of People in the European Union	437

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DUTIES AND POWERS OF MAYORS DURING THE STATE OF EMERGENCY THE INDIGNITY OF MAYORS AND THE DECISIONS-MAKING DURING THE STATE OF EMERGENCY

***Abstract:** The study aims to show how well the mayor's decision-making in a state of emergency corresponded to the public trust placed in them, looking further into the subject, it examines how decisions taken during this time can be made in the context of the mayor's indignity.*

In my doctoral research, I examine the legal institution of indignity in the Hungarian public administration, so far I have examined the injustice of local government representatives and mayors more widely. The rules of indignity, which are applicable to them, are narrow, rather punitive and do not give priority to the requirement of appropriate conduct, or what is relevant to the subject, is the need to make a decision in accordance with the trust of voters. Although this requirement appears on the international stage, the recommendations of the Council of Europe set out the requirements to be applied to them. Moreover, the rules of indignity of mayors are in stark contrast to the indignity rules for those in the public service where a procedure consistent with trust in good administration is a legal obligation.

The COVID-19 made this hiatus even more prominent the mayors were given decision-making power, but it is not described in the legal framework what these decisions can be and the rules of indignity do not include the requirement for voters or for decisions to maintain confidence in good administration.

The study is based essentially on a doctrinal stance, in this light it presents the indignity rules for mayors and using the comparative method, he tries to draw a parallel with the etymological meaning of indignity, which bears the same name but with completely different reasons for public service regulation and the presentation of international criteria.

Reflecting on the high-profile mayoral decisions made during the emergency, and taking into account the findings of the exploration of the regulatory environment and practice, the study concludes with de lege ferenda proposals to put ammunition in the hands of the legislature to eliminate undetected anomalies.

Keywords: mayor, indignity, state of emergency, public administration, local governments.

Introduction

The COVID-19 pandemic made many new challenges and situations in all areas of life including legal procedures, too. On the local level of administration, the role of mayors has intensified, because according to the *Act CXXVIII of 2011 on concerning disaster management and amending certain related acts* (hereinafter: Kat.), the duties and powers of local governments are exercised by the mayor, with the exception specified in the Kat.¹ It means that the mayor has a decision-making role during a state of emergency.

The study aims to link the decision-making obligation imposed on mayors due to the state of emergency to the rules of indignity that apply to them. It seeks the answers to the extent to which the decisions taken by mayors in the pandemic period are commensurate with the trust placed in them. Looking further into the subject, to what extent or how do these criteria appear in the *Act CLXXXIX of 2011 on local governments in Hungary* (hereinafter: MötV.) among the provisions of indignity. The study aims to find a solution and make *de lege ferenda* proposals for the problems that have arisen and have become even more prominent in the pandemic period.

I. Indignity and trust

I.1. The definition of indignity and its Hungarian regulation

Indignity itself as a term means not deserving something, not worthy of something. It also means an action or behaviour that is not worthy, not befitting someone or something.² In contrast, the word of dignity means that someone or something is worthy of someone or something. Moreover, it also means someone appropriate to someone's person, profession or belief.³

¹ Article 46 (4) of Act CXXVIII of 2011 on concerning disaster management and amending certain related acts (hereinafter: Kat.).

² A „méltatlan” szó jelentése. A magyar nyelv értelmező szótára. [https://www.arcanum.com/hu/online-kiadvanyok/Lexikonok-a-magyar-nyelv-ertelmezo-szotara-1BE8B/m-3C77D/meltatlan-3F201/\(01.10.2021.\)](https://www.arcanum.com/hu/online-kiadvanyok/Lexikonok-a-magyar-nyelv-ertelmezo-szotara-1BE8B/m-3C77D/meltatlan-3F201/(01.10.2021.))

³ A méltó szó jelentése. A magyar nyelv értelmező szótára. [https://www.arcanum.com/hu/online-kiadvanyok/Lexikonok-a-magyar-nyelv-ertelmezo-szotara-1BE8B/m-3C77D/melto-3F20C/\(01.10.2021.\)](https://www.arcanum.com/hu/online-kiadvanyok/Lexikonok-a-magyar-nyelv-ertelmezo-szotara-1BE8B/m-3C77D/melto-3F20C/(01.10.2021.))

The “dignity of public respect”⁴, as an element of status, is the achievement of the *Mötv.*, which calls the indignity as a new legal institution, listing exhaustively the causes that lead to the termination of the mandate of local government representatives. These rules also apply to mayors. These cases are the following:

- Sentencing to imprisonment for an intentional criminal offence during their status;
- Public debt owed to the state or local government;
- Unsatisfied credit or debts;
- Obstructing or failing to enforce a final court decision and
- Failure to disclose an existing reason for a conflict of interest to the representative body.⁵

Based on the above, it can be seen that the list is narrow, largely criminal, contrary to the etymological meaning of the word and the rules applicable to other public servants. This legal institution is no stranger to the public service. The *Act CXCV of 2011 on public servants* (hereinafter: *Kttv.*) also names it, but in this case, it operates with the concept and emphasizes the appropriate behaviour by a government official. In this point of view, government officials are undignified of their office if they act in a manner which may be in breach of their duty or legal relationship, but even outside their place of work, which is likely damage the trust in their position or the employer’s reputation or good administration and therefore the employer cannot be expected to maintain the legal relationship.⁶

I.2. Trust as a point of connection

As outlined above, the regulatory concepts for the two positions are fundamentally different, although both positions presuppose trust. On the one hand, it presupposes the trust of voters in the case of mayors, as they are elected because the members of the local community trust that their hopes and promises will be kept. On the other hand, it presupposes trust in good administration in the case of public servants.

Based on the fact that trust is central to both positions, the question arises as to whether there is no regulatory hiatus in the indignity regulation for mayors, as there is no need for proper conduct. Moreover, they both perform their duties in the public administration and are “in the service of the public”, therefore the divergence of the regulatory concept is unjustified. This is especially true as, in the international area, the *Anti-Corruption Report*⁷ states that the same rules must

⁴ FARKASNÉ GASPARICS, EMESÉ: Magyarország helyi önkormányzatairól szóló törvény születéstörténete és jelene. *COMITATUS*, 28(229), 2018. p. 25.

⁵ Article 38 (1) of Act CLXXXIX of 2011 on local governments in Hungary (hereinafter: *Mötv.*).

⁶ Article 64 (1) of Act CXCV of 2011 on public servants (hereinafter: *Kttv.*).

⁷ EU Anti-corruption Report, Report from the Commission to the Council and the European Parliament, COM(2014) 38 final, 03/02/2014., p. 2.

be applied to all civil servants, regardless of whether they are elected or appointed and the starting point for this would be the summary designation of the posts. Thus, there would be no question as to what level and extent of rules apply. The most important thing is to act in the public interest and legally.⁸

II. Changes resulting from the declaration of a state of emergency

Under “normal law”, the main decision-making body of local governments is the representative body⁹, which is the addressee of the tasks and powers of local governments. One of its bodies is the mayor, who chairs the representative body, convenes, chairs and represents it. As a result, it has a quasi-representative role, which changes with the declaration of the state of emergency.¹⁰

The Government of Hungary first declared a state of emergency for the entire territory of the country on 13 March in 2020 and then on 3 November in 2020.¹¹ Consequently, according to the provision of the Kat., the duties and powers of the representative body, the capital and county assemblies are exercised by the mayor, with the exception specified in the Kat.¹² This means that the representative body does not meet or be convened, the mayor makes decisions in one person for the performance of municipal duties. It may be a question for voters what decisions they can be expected to make. Based on the approach that the position of mayor is based on public trust and that the maintenance of trust in good administration is reflected in the regulation of the dignity of other actors in the public administration, so that mayoral decisions must also meet the criteria for acting in a manner consistent with the trust of voters in the state of emergency. In other words, they must make decisions that serve the interests of the electorate, especially because they also make serious demands on the functioning of local governments on the international stage.

II.1. The emergence of public-confidence decision-making in the light of international obligations

At the international level, expectations are set primarily for local government representatives, which – by a contrary conclusion – can also be applied to mayors. The *European Charter of Local Self-Government*¹³ adopted by the Council of Europe

⁸ EU Anti-Corruption Report (2014), p. 9.

⁹ Mötv. Article 41 (2)-(3).

¹⁰ FEIK, CSABA (SZERK.): Magyarország helyi önkormányzatai. *Nemzeti Közszolgálati Egyetem*. 2014. 51-52.

¹¹ Government Decree 40/2020. (III.11.) on the declaration of the state of emergency and Government Decree 478/2020. (XI.3.) on the declaration of the state of emergency.

¹² Kat. Article 46 (4).

¹³ European Charter of Local Self-Government, Strasbourg, 15.X.1985. ETS 122.

in 1985 should be highlighted in this context, which currently sets requirements as the highest level and lays the foundations for the democratic functioning of local self-government.

According to the *Vienna Convention on the Law of Treaties*¹⁴, the Council of Europe, as the organisation that established the Charter, has the right to interpret it and to issue guidelines on it, which is why all its recommendations and decisions explaining certain parts of the Charter can be considered as legislative legal interpretations. In this way, its 1999 and 2018 Recommendations serve as *de facto* guidance. *De iure* it is soft law, but it supports the purposeful interpretation of the provisions of the Charter and constitutes a crucial standard of democratic rule of law.

The 1999 Recommendation¹⁵ pointed out that representatives, which is an expectation that can be interpreted for mayors as well, must respect the public interest and take moral principles into account under their responsibility, and if they do not, their credibility will be questioned.¹⁶

The recommendation also includes a code of conduct as an appendix, which states, inter alia, that mayors perform their duties within the limits set by law and based on the mandate obtained by the electorate their responsibility extends to all the voters. The preamble to the code already focuses on strengthening trust, which is served by the further provisions of the code of conduct to enable mayors to carry out their duties.¹⁷

Mayors must keep in mind the public interest and not in the interests of themselves or of individuals. It should be emphasized that the code of conduct also deals with relations with citizens, which emphasizes the publication and justification of decisions, in which mayors may also answer citizens' questions. This recommendation establishes the requirement that, even in times of emergency, decisions must be made in the interests of voters.¹⁸

This requirement is confirmed by the recommendation of the Council of Europe adopted in 2018¹⁹, which pointed out that it is important to develop an ethical

¹⁴ Vienna Convention on the Law of Treaties. Vienna, 23 May 1969. Entered into force on 27 January 1980. United Nations, Treaty Series, vol. 1155, p. 331. Article 31.

¹⁵ Congress of Local and Regional Authorities Of Europe: Recommendation 60 (1999)1 on political integrity of local and regional elected representatives, debated by the Congress and adopted on 17 June 1999, 3rd sitting, presented by Mr V. Coifan, Rapporteur. [https://rm.coe.int/168071a0f7\(01.10.2021.\)](https://rm.coe.int/168071a0f7(01.10.2021.)) (Recommendation (1999)).

¹⁶ Ibid. p.5-6.

¹⁷ Ibid. p. 9.

¹⁸ Ibid. p. 11-19.

¹⁹ Resolution 433 (2018) on all persons involved in local and regional governance. Debated and adopted by the Congress on 7 November 2018, 2nd sitting (see Document CG35(2018)12, explanatory memorandum, presented by Manuela Bora, Italy, rapporteur). <https://rm.coe.int/european-code-of-conduct-for-all-persons-involved-in-local-and-regiona/16808ec7e3> (2020.01.31.) (Recommendation (2018)) preamble.

standard based on common principles that can guide and help to deepen the trust placed in him by the people whose interests it ultimately serves.²⁰

This Recommendation also highlights the findings of the Anti-Corruption Report. most importantly, that mayors in all circumstances have a legitimate duty to promote transparency in the public interest and must inform the public on request and this obligation may be limited only in justified cases and from a legal point of view.²¹

The state of emergency, although an extraordinary legal order, in which special rules apply, must not impede democratic functioning, it must not impede transparency and legitimacy. This requirement supports the right of voters to have access to decisions, protocols and all documents that were an element of the decision-making within the competence of the municipality. This means, among other things, the fundamental democratic right to involve citizens in decision-making, which is not limited to the possibility: it must be ensured in such a way that a person who does not understand the field is guided.²² This interpretation demonstrates that closed meetings and documents held in camera, insofar as they can be linked to decision-making and action in the interests of the voters, cannot be closed to the public for personal reasons either. This basic requirement also seems to be appropriate in a state of emergency.

The 2018 Recommendation also puts the issue of public confidence on a new basis, most importantly by proposing the operation of a guarantee mechanism. This means that mayors can be held accountable by providing a reporting forum for those who perceive potential conflicts of interest or unethical self-interest behaviour. This will be examined by a body set up for this purpose, with due regard for the legal protection of the notifier.²³

II.2. Implementation of public-trust decision-making in the state of emergency

In practice, the correct interpretation of the provision quoted in the Kat. has been a serious challenge and there have been abuses, which have had a very strong repercussion. such a case occurred in Komló, where the mayor adopted, among other things, the annual budget and suspended the local media and withdrew honorary fees from deputies.²⁴ A similar case occurred in Szekszárd, where the

²⁰ Ibid.

²¹ Ibid., Appendix, Article 3-5.

²² European Code of conduct for all persons involved in local and regional governance. Council of Europe, December 2018. [https://rm.coe.int/1680718fbf\(01.10.2021.\)](https://rm.coe.int/1680718fbf(01.10.2021.)) p. 47.

²³ Recommendation 2018., Appendix, Article 13.

²⁴ Municipal Decree of Komló 15/2020.(III.13). on the budget of Komló in 2020 and on the order of its implementation.

mayor also adopted the annual budget.²⁵ In Nagykanizsa, the mayor elected a deputy mayor²⁶, recalled councillors²⁷ and reduced fees.²⁸

Seeing such examples, the question arises as to how far the abuse of power and the imbalance in the necessary provisions can be traced back to the lack of an adequate regulatory environment. The local interest, the service of the electorate cannot result in an illegal state even in the case of an extraordinary legal order, however, local interests cannot be set aside in the guise of legality. Furthermore, this set-aside has no legal consequences, and mayors cannot be recalled or held liable unless they do what is in the best interests of the voters. In this case, it is in their interest to feel safe in order to ensure that decisions are taken to protect the health of the community and guarantee its care. If this is not done, will the voter have to make up for it by being replaced in the next election, drawing the lesson that the mayors have not lived up to their expectations?²⁹

Because of the mayoral decisions made as a result of the problem of legal interpretation, which provoked widespread voter resentment, the number one people in the community first received a piece of information from government offices. It set out the framework for the correct interpretation and application of the legislation.³⁰ However, further questions arose, which led the Ministry of the Interior and the Prime Minister's Office in its Recommendation of 27. March 2020³¹ entitled „Guide to the practical application of the emergency provision of the Disaster Management Act”. This guide shows a *pseudonormal character*³², which means that administrative legislation is also linked to the regulatory activity of the public administration, which includes the sub-statutory level of standards, such as the adoption of regulatory instruments or other normative instruments. The latter include soft law and pseudo-norms³³, which are normative acts that do not qualify

²⁵ Municipal Decree of Szekszárd 9/2020. (III.13.) on the 2020 budget of Szekszárd.

²⁶ Mayor's Decision of Nagykanizsa 40/2020. (III.20.) on the election of a deputy mayor.

²⁷ Mayor's Decision of Nagykanizsa 41/2020. (III.20.) on recalling a local government representative.

²⁸ Municipal Decree of Nagykanizsa 7/2020. (III.20.) on the amendment of Municipal Decree of Nagykanizsa 100/2011. (XII. 23.) on the organizational and operational regulations.

²⁹ For more information see the dissenting opinion of Béla Pokol constitutional court judge on the declaration of a principled opinion related to the dissolution of the representative body operating unconstitutional, Constitutional Court Decision 18/2013. (VII.3.), ABH2013, p. 758.

³⁰ Mötv. Article 133 (3).

³¹ Önkormányzati Tudástár IV. az Önkormányzati Hírlevél 2020. évi 6. száma.

³² BALÁZS, ISTVÁN- HOFFMAN, ISTVÁN: *Közigazgatás koronavírus idején- a közigazgatási jog rezilienciája?* MTA Law Working Papers, Magyar Tudományos Akadémia, Budapest. 2020/21. 12-13.

³³ ÁRVA, ZSUZSANNA: „*Közigazgatási jog*” in Jakab András – Fekete Balázs (szerk.): *Internetes Jogtudományi Enciklopédia (Közigazgatási jog rovat, rovat szerkesztő: Balázs István)* <http://ijoten.hu/szocikk/kozizagatasi-jogalkotas> (2019) (01.10.2021.) [8].

as legislation, have no binding force, and nevertheless have unquestionable legal relevance.³⁴

There are serious debates about the assessment of pseudo-norms from the point of view of constitutionality, as they are promulgated without a proper legal basis, behave as legislation, and have legal significance. It is also contrary to the principle that the public administration is subject to the law, since the public administration must do what is based on the law.³⁵ In 1992, the Constitutional Court examined the constitutionality of pseudo-norms and found that those resolutions and other informal legal interpretations containing legal guidelines issued by ministries and other central state bodies and the practice of governing with them were unconstitutional. This position was confirmed in 2007.³⁶

Because of this definition and the resulting disputes, the resolution issued by the two ministries is questionable.

The study does not aim to present the whole guide, but merely points out some important points which have sought to find a solution to the above-mentioned problem.

First of all, the guide emphasized that the Board of Representatives and the committee could not be convened, they had no decision-making power in a state of emergency, as the powers of the representative body were exercised by the mayors, but they could seek the opinion of local government representatives before taking a decision. The responsibility lies with the mayor in making decisions.³⁷ Mayors can make decisions on all necessary issues, but they must respect that the application of statutory deadlines has not been suspended by legislation promulgated in the state of emergency. Decisions must be taken on such matters in which case the prohibition of necessity, proportionality and abuse of rights must prevail, and consideration must be given to whether the decision may be postponed.³⁸ The resolution shall state the form in which the decision is to be taken.³⁹

After the end of the state of emergency, according to the rules of the Mőtv., the representative body may review the decisions of the mayors and decide which ones to repeal or keep in force, but it does not have the power of retroactive review.⁴⁰

The representatives' honorarium was also provided for,⁴¹ as was a resolution on the election of a deputy mayor during the state of emergency.⁴² The formal requirements for mayoral decisions were also set out in the guide.⁴³

³⁴ GÉCZI, KINGA: *A közigazgatási büntetőjog szabályozási anomáliái, különös tekintettel a pszeudo normák kérdéskörére*. Jog-Állam-Politika, 2009/3. szám CD-melléklete: A jogállamiság 20 éve. 180.

³⁵ *Ibid.* p. 181.

³⁶ ÁRVA *supra* [8].

³⁷ Önkormányzati Tudástár IV. p. 7.

³⁸ *Ibid.* p. 8.

³⁹ *Ibid.* p. 8-9.

⁴⁰ *Ibid.* p. 40.

⁴¹ *Ibid.*

⁴² *Ibid.* p. 10.

⁴³ *Ibid.*

The guide also provided for the review of the legality of decisions: it covers these decisions, as well as the obligation to submit them to the capital and county government offices.⁴⁴

The two ministries emphasized that the exercise of duties and powers under the Kat. must comply with the principles set out in the Mötv. They seek to curb abuses in the context of a legality review procedure, which can be considered as a solution, but not entirely satisfactory, especially as this guide has no legal force, given that it is not legislation.

This situation did not change during the second wave of the pandemic either: a government decree was issued on the exercise of the mayor's duties and powers,⁴⁵ although this did not specify the cited provision of the Kat. Again, circular letters⁴⁶ were issued revising what was described above.

III. Solution to the problem- de lege ferenda proposal

In the state of emergency, mayoral decisions should not be in the interests of the mayors themselves, but in the interests of the community, as the Council of Europe has previously stated in its proposals. If they do not, voters should be given a chance to hold them to quasi-accountability. Don't just have the result of their unexpected procedure that they won't be voted on with confidence in the next election.

A regulatory concept would be needed as a requirement to maintain trust in good administration *vis-à-vis* mayors, as this is a position of trust.

This has a role only because the etymological meaning of the word indignity also reflects that it is worthy of something, the embodiment of trust is the mandate, which means that it is worthy of the trust of the voters, thus gaining its mandate. If they lose confidence, they may become unworthy of their office, but this is not included in the regulation, so it would be advisable to re-create the system of rules on indignity. Placing it on a new concept, emphasizing and centring trust even more, as good governance is an essential condition for a country's democratic functioning. At the local level, this is the responsibility of local governments, whose most important body is the representative body. although the mayors have only a representative function, they are given a decisive role in the state of emergency, during which the regulatory failure will only be reflected further.

⁴⁴ Ibid. p. 11.

⁴⁵ Government Decree 15/2021. (I.22.) on the certain issues of the performance of mayor's duties during an emergency.

⁴⁶ Önkormányzati Tudástár IV. az Önkormányzati Hírlevél különszáma (2020. évi 6. szám); Önkormányzati Hírlevél különszáma 2020. évi 11. szám, Önkormányzati Tudástár IX. és Önkormányzati Tudástár X.; Önkormányzati hírlevél 2020. évi 19. száma; Önkormányzati Hírlevél 2021. 2. száma.

There has been no exact solution to this problem during both waves of the epidemic, and the efforts run counter to the demands made by the Council of Europe, as mayors must define their rights and obligations as a fundamental principle of law. However, nowadays, this is not an exact legal environment. This is also the case with liability issues: if the right decisions are not taken – and now we are not talking about decisions based on the provisions of the law, we are talking about the requirement for elections to be made – as the Council of Europe considers desirable, a body should be set up to examine them. It would also be important to involve voters in decision-making and to provide adequate information.

Due to the trusting nature of the mayor's office and the fact that trust plays a role in the indignity of other actors in the administration, this unconstitutional element must also appear in the regulation of the indignity of mayors. they must also be subject to a procedure in accordance with the principle of trust in good administration, which includes decision-making that takes into account the interests of the voters. The legal enforcement of this requirement would be the first step towards a uniform definition of the indignity of public administration, which may lead to the international requirement for uniform criteria for all substantive elements of the status of public administration, a uniform regulation and then a name.

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A polgármesterek feladat- és hatásköre a veszélyhelyzet idején A polgármesterek méltatlansága és döntéshozatala a veszélyhelyzet alatt

Absztrakt: *A tanulmány azt kívánja bemutatni, hogy a rendkívüli helyzetben a polgármesteri döntéshozatal mennyire felelt meg a beljük fektetett közbizalomnak, közelebbről vizsgálva a témát, azt vizsgálja, hogyan hozhatók összefüggésbe az ez idő alatt született döntések a polgármester méltatlanságával.*

Doktori kutatásomban a méltatlanság jogintézményét vizsgálom a magyar közigazgatásban, az eddigiek során szélesebb körben vizsgáltam az önkormányzati képviselők és polgármesterek méltatlanságát. A rájuk vonatkozó méltatlansági szabályok szűk körűek, inkább büntető jellegűek, és nem az általuk tanúsított megfelelő magatartás követelményére helyezik a hangsúlyt, illetve ami a téma szempontjából lényeges, a választópolgárok bizalmának megfelelő döntéshozatal szükségességére. Jóllehet ez a követelmény megjelenik a nemzetközi szinten, ugyanis az Európa Tanács ajánlásai meghatározzák a velük szemben támasztott követelményeket. Ráadásul a polgármesterek méltatlanságának szabályai éles ellentétben állnak a közszolgálatban dolgozók méltatlansági szabályaival, ahol a jó közigazgatásba vetett bizalommal összeegyeztethető eljárás törvényi kötelezettség.

A COVID-19 ezt a hiányosságot még hangsúlyosabbá tette, a veszélyhelyzet idején a polgármesterek döntési jogkört kaptak, de jogszabályi keretek között nincs leírva, hogy ezek milyen döntések lehetnek, és a méltatlanságra vonatkozó szabályok sem tartalmazzák a választópolgárok, illetve a jó közigazgatásba vetett bizalom fenntartásának követelményét.

A tanulmány alapvetően doktrinális irányvonalra épül, ennek fényében mutatja be a polgármesterekre vonatkozó méltatlansági szabályokat, összehasonlító módszerrel igyekszik párhuzamot vonni a méltatlanság etimológiai jelentésével, valamint az ugyanazt a nevet viselő, ám teljesen eltérő okokra visszavezethető közszolgálati szabályozással, továbbá bemutatja a nemzetközi kritériumokat.

A rendkívüli jogrend során meghozott nagy horderejű polgármesteri döntésekre reflektálva, a szabályozási környezet és gyakorlat feltárásának megállapításait

figyelembe véve, a tanulmány de lege ferenda javaslattal zárul, municiót adva a jogalkotó kezébe a fel nem fedezett anomáliák kiküszöbölésére.

Kulcsszavak: *polgármester, méltatlanság, veszélyhelyzet, közigazgatás, helyi önkormányzatok.*

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Дужности и овлашћења градоначелника током ванредног стања Недостојност градоначелника и одлучивање током ванредног стања

Сажетак: У раду се настоји показати колико је одлучивање градоначелника током ванредног стања одговарало поверењу које им је јавност указала, ледајући дубље у тему рада, испитује се како се одлуке предузете током ванредног стања могу донети у контексту недостојности градоначелника.

Аутор у свом доктормском изражавању испитује правни институцијски недостојности у мађарској јавној управи, а досад је шире испитивао неправду председника локалне самоуправе и градоначелника. Правила о недостојности су ограничена, прилично казнена и не дају предности захтеву одговарајуће владања, односно оном што је релевантно за тему рада, а што је потребно да се одлука донесе у складу са поверењем бирача. Иако се овај захтев појављује на међународној сцени, прејоруже Савета Европе постављају захтеве да се примене на њих. Штавише, правила о недостојности градоначелника су у општој сукопостављености са правилима о недостојности за оне у јавним службама где је општујак у складу са поверењем у добру управу правна обавеза.

Прекидом који је назван COVID-19 још више је испакнута моћ одлучивања која је дата градоначелницима, при чему правом није одређено какве те одлуке могу бити и правила о недостојности не укључују захтев да бирачи или одлуке одрже поверење у добру управу.

Рада је заснован на докторминарном ставу, у шом светлу су представљена правила о недостојности градоначелника и коришћем упоредног метода покушава се повући паралела са етимолошким значењем недостојности у јавним службама, која носи исти назив, али из општуно друшачијих разлога, те представљање међународних критеријума.

Осврћући се на далекосежне градоначелникове одлуке донете током ванредног стања, а узимајући у обзир налазе изражавања регулаторној

окружења и њихове, рад се завршава *de lege ferenda* предлозима да се „оружје“ сипава у руке законодавне власти како би се елиминисале неопкривене аномалије.

Кључне речи: градоначелник, недостојноси, ванредно стање, јавна управа, локална самоуправа.